



Federal Communications Commission
Washington, D.C. 20554

May 25, 2010

Jonathan L. Yates, Esq.
Nexsen Pruet, LLC
205 King Street, Suite 400 (29401)
PO Box 486
Charleston, SC 29402

Dear Mr. Yates:

We have received your request on behalf of Hark Tower Systems, Inc., dated April 14, 2010, for an expedited process by which tower owners using Hark's monitoring system may request and obtain waivers of their obligation to perform quarterly inspections under Section 17.47(b) of the Commission's Rules.¹ Section 17.47(b) requires that the owner of any antenna structure that is registered with the Commission and has been assigned lighting specifications pursuant to Part 17 "[s]hall inspect at intervals not to exceed 3 months all automatic or mechanical control devices, indicators, and alarm systems associated with the antenna structure lighting to insure that such apparatus is functioning properly."² As you note, the Wireless Telecommunications Bureau has established a process so that users of the Eagle Monitoring System by Flash Technology may obtain expedited waivers to perform annual rather than quarterly inspections of their lighting monitoring systems.³ Based on the similarity of the Hark and Eagle systems, you ask that we adopt a comparable expedited process for users of Hark's monitoring system.

The Commission has previously found that the Hark monitoring system, like the Eagle monitoring system, provides sufficiently robust monitoring of the control devices, indicators and alarm systems so as to render quarterly inspections unnecessary.⁴

¹ 47 C.F.R. § 17.47(b).

² *Id.*

³ In the Matter of Request of Mobilitie, LLC for Waiver of 47 C.F.R. § 17.47(b), *Memorandum Opinion and Order*, 24 FCC Rcd 11949, 11952 para. 9 (WTB 2009) (*Mobilitie Waiver Order*); see also In the matter of TowerSentry LLC Request for Waiver of 47 C.F.R. § 17.47(b) and Joint Petition of Diamond Communications LLC and Diamond Towers LLC for Waiver of 47 C.F.R. § 17.47(b), *Memorandum Opinion and Order*, 24 FCC Rcd 10274 (WTB 2009) (establishing a similar waiver process for users of the TowerSentry Monitoring Systems).

⁴ In the Matter of Requests of American Tower Corporation and Global Signal, Inc., to Waive Section 17.47(b) of the Commission's Rules, WT Docket No. 05-326, *Memorandum Opinion and Order*, 22 FCC

Therefore, we hereby adopt the expedited waiver process outlined in the *Mobilitie Waiver Order* for tower owners using the Hark monitoring system. Specifically, each waiver applicant must certify that: (1) its towers are monitored by the Hark monitoring system under the process described in the *ATC/GSI Waiver Order*; and (2) it maintains a facility to receive notifications of failures from the Hark monitoring system, which will enable the tower owner to carry out its responsibilities under Part 17 of the Commission's rules. The certification shall be signed, under penalty of perjury, by a company officer (or partner, sole proprietor or similar person able to act on behalf of the tower owner) with knowledge of the underlying facts. To ensure timely processing, waiver requests should also be e-mailed to part17@fcc.gov.

We note that the Commission has released a Notice of Proposed Rulemaking seeking comment on proposed changes to part 17 of the Commission's rules and this determination is subject to any rule changes that the Commission may promulgate in that proceeding.⁵

You may contact Michael C. Smith of our office at 202-418-0584 if you have any questions regarding this letter.

Sincerely,

Jeffrey S. Steinberg
Deputy Chief
Spectrum and Competition Policy Division
Wireless Telecommunications Bureau

Rcd 9743, 9748 para. 17 (2007) (*ATC/GSI Waiver Order*) (granting waiver to Global Signal, Inc. to perform annual inspections at its towers monitored by the Hark system).

⁵ In the Matter of Amendments to Modernize and Clarify Part 17 of the Commission's Rules Concerning Construction, Marking and Lighting of Antenna Structures, RM 11349, *Notice of Proposed Rulemaking*, FCC 10-53 (released April 20, 2010).